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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
BAREFORD, KATHERINE A	

ART UNIT	PAPER NUMBER
1762	

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/705,482	BENAGLIO ET AL.	
	Examiner	Art Unit	
	Katherine A. Bareford	1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 February 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Claim 2 is canceled

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The amendment of Feb. 4, 2005 has been received and entered. It is noted that no changes have been made to the claims

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1 and 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Algeri et al (US 4060052) in view of Marion et al (US 4693376) and Giesinger et al (US 6063195).

Algeri teaches a process for coating parts. Figure 1 and column 1, lines 5-25. The parts can be a beverage can, for example. Column 1, lines 10-20. A single ordered stream of parts having a repeating sequential order is provided. Column 1, lines 25-55 and column 2, line 60 through column 3, line 5 and figure 1. This repeating sequential order enables identification of the parts by the location of the parts in the ordered stream. As shown by column 1, lines 25-55 and column 2, line 60 through column 3, line 5 and figure 1. The stream is caused to move with an intermittent motion having a move time and a dwell time. Column 1, lines 25-55. A plurality of coating guns is provided to "fire at" or coat the parts during the dwell time. Column 2, line 60 through column 3, line 5. The coating would be a set rate, which would be the normal firing rate. Column 5, lines 20-30. A desired portion of a part is coated with a first coating gun during a first dwell time. Column 1, lines 44-47.

Algeri teaches all the features of these claims except the (1) drawn metal parts, (2) the inspection, (3) the replacement of the first gun with a second gun, (4) the firing speeds (claims 3,4,6, 7) and (5) the shifting of the second gun (claims 4,7).

Marion teaches that when coating beverage cans on an assembly line, it is well known to provide an automatic inspection system to make sure that the applied coating is acceptable. Column 1, lines 10-60. Furthermore, Marion teaches that it is well known that cans are made from drawn metal parts. Column 1, lnes 10-35 and 45-50.

Giesinger teaches coating a moving part using multiple spray guns in an assembly line type situation. Column 3, lines 25-50. Giesinger teaches that when using these multiple spray guns, it is desirable to provide an additional coating gun so as to be movable to replace a faulty or

broken down coating gun to take over the task of the defective coating gun. Column 4, lines 10-15.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Algeri to provide that the cans were made from drawn metal parts as suggested by Marion with an expectation of providing a desirable can for beverage use, because Algeri teaches to coat cans, and Marion teaches that beverage cans are desirably made from drawn metal parts. It would further have been obvious to modify Algeri to provide automatic inspection means for determining if the coating was defective as suggested by Marion in order to provide desirable final coated products, because Algeri teaches spray coating beverage cans, and Marion teaches that when coating beverage cans it is desirable to provide an automatic inspection of the cans on the assembly line so that defective cans will not be used. This inspection would desirably occur during a dwell time, because Algeri teaches an intermittent movement of the assembly line, with actions occurring during the dwell time. It would further have been obvious to modify Algeri in view of Marion to replace the first coating gun with a second, replacement, coating gun if the inspection reveals that the first coating gun is defective as suggested by Giesinger in order to provide optimum coating efficiency, because Algeri in view of Marion teach spray coating cans in an assembly line process and inspecting the coated cans, and Giesinger teaches that when spray coating with multiple spray guns in an assembly type process, it is desirable to provide an additional replacement coating gun that is movable to replace a faulty of broken down coating gun during the process. This would provide a second spray gun to replace the first spray gun to allow coating parts in the same sequential location that was previously assigned to the first coating

gun. As the inspection reveals the condition of the coating, it would reveal when the spray gun began providing defective coatings, and at the least, it would be suggested to note the sequential order and position of the cans as they moved down the line to be able to tell which spray gun made which coating for the purposes of replacing the spray gun as suggested by Giesinger, since the cans move in an ordered, sequential motion. The movement of the second spray gun into position would provide "shifting" of the second spray gun along the ordered stream into position as claimed. As to the firing speed of the second coating gun as compared to the firing speed of the first coating gun, Algeri provides that the dwell time is controlled to allow the spraying and other controlled functions (see column 5, lines 20-30), and thus the spraying would be optimized by routine experimentation for a replacement spray gun taking into account how long its other functions would take, such as movement into the can.

Response to Arguments

6. Applicant's arguments filed Feb. 4, 2005 have been fully considered but they are not persuasive.

Applicant argues that Algeri and Marion do not identify what to do in the event of failure of a spray gun. Applicant further argues that Giesinger detects inoperative guns from monitoring the flow of powder through the gun, and further provides an alternative embodiment of a corrective action of using a vertically movable additional gun. According to applicant, one is left to speculate how this additional gun is mounted and manipulated to substitute for the defective gun. Applicant argues that the present application does not require the addition of a superfluous

spray gun, rather the existing spray guns are operated or manipulated in an unobvious way (by firing at double rate or shifting position) so that they automatically and instantly continue to coat the parts and maintain identification of the source of the parts. As to claim 3, applicant argues that the references do not suggest processing in a second spray gun at twice the normal processing rate. As to claim 4, applicant argues that the references do suggest the shifting and operational speed claimed. As to claim 5, as to the shutting down of guns that are producing defective coatings, applicant argues that the references do not appear to address the problem of inoperative spray guns other than by removal and installation of guns requiring replacement (or by a vague statement by Giesinger unsupported by any disclosure) so as to minimize downtime associated with a malfunctioning processing system. Applicant further notes that while the Examiner states that Giesinger teaches that a second additional spray gun can replace a first spray gun to allow coating parts in the same sequential location, unfortunately Giesinger does not show how this is done. If the same location is used to replace one gun with another, the defective parts would continue to pile up as scrap parts while the substitution is taking place.

The Examiner has reviewed this argument, however, the rejection is maintained. As to the sequential nature of the cans of Algeri, the claims merely require the sequential order enabling identification of the part by location of the part in the stream, which is provided by Algeri, as discussed in the rejection above. For example, the movement of the cans in indentified groups of two provides a repeating sequential order to the extent required. As to the teaching of Giesinger, the reference specifically provides a teaching of providing an additional (or second) coating gun so as to be movable to the level of the faulty or broken down coating gun to take over the task of the

deficient coating gun. Regardless of whether this teaching is brief or is an alternative embodiment, it is a clear teaching that a defective gun can be replaced by a second gun that shifts to the first gun's locale to perform coating. This is all that is required by the claims (see claim 1, part (g)), for example. While applicant discusses that they do not use an additional gun, but rather operate or manipulate existing spray guns in the process to instantly continue the coating, none of these features are actually required by the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As to claims 3 and 4 as to the firing speed of the second gun as compared to the firing speed of the first coating gun, the Examiner has taken the position that Algeri provides that the dwell time is controlled to allow the spraying and other controlled functions (see column 5, lines 20-30), and thus the spraying would be optimized by routine experimentation for a replacement spray gun taking into account how long its other functions would take, such as movement into the can. Applicant has provided no explanation as to why this is not the case. As to claim 4 as to the shifting of the second gun along the ordered stream, the Examiner notes that Giesinger clearly teaches that the second gun is movable to replace the first gun. One of ordinary skill in the art would optimize the placement of the back-up or second gun to allow for efficient shifting to replacement positions, which would include "shifting" or moving along the ordered stream so it can be placed in a desired location for taking over spraying tasks, since overly long replacing time would delay the coating line or allow for more defective parts to build up. As to claim 5 as to shutting down defective guns, it would clearly have been obvious that if a gun was to be removed and replaced by a second, replacement

gun, the first gun would have to be shut down, since it would no longer be performing the spraying tasks. As to the argument that Giesinger does not show how the second spray gun replaces the first spray gun, the reference clearly indicates that the second spray gun is moved to the area of the first gun to replace it. While defective parts may pile up during this replacement time, this is not prevented by the claims as worded.

Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine A. Bareford whose telephone number is (571) 272-1413. The examiner can normally be reached on M-F(6:30-4:00) with the First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (571) 272-1415. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Other inquiries can be directed to the Tech Center 1700 telephone number at (571) 272-1700.

Furthermore, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KATHERINE BAREFORD
PRIMARY EXAMINER